

# Exhibit F

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1 MS. SHEPHERD: And 4 is?

2 HEARING OFFICER GOMEZ: Oh, excuse me. I thought.

3 Thank you.

4 MS. SHEPHERD: Oh, okay --

5 HEARING OFFICER GOMEZ: The Regional Director has directed

6 that the following issues will be litigated in this proceeding.

7 Whether the petitioned for unit is appropriate limited only to

8 the Hunts Point and Stillwell Avenue locations or whether those

9 two locations share an overwhelming community of interest under

10 current Board law and precedent with employees at five other

11 locations Zerega Avenue, Autumn Avenue, Atlantic Avenue,

12 Jamaica and Powell Street, sufficient that all of the locations

13 should be included in a multi-location unit. Whether the above

14 stated standard articulated in Specialty Healthcare applies

15 where the larger unit has been history represented. And

16 whether the classifications in the petitioned for unit should

17 constitute one unit or two units, one unit for the drivers and

18 matrons and other unit for shop employees.

19 Please be aware that the petitioned for unit is an

20 appropriate unit, because it seeks to represent all employees

21 at two of the Employer's Bronx locations and the burden is on

22 the Employer to show that the smallest appropriate unit must

23 include all of the Employer's facilities located in the Bronx,

24 Brooklyn and Queens, to the extent those employees are

25 represented by Local 91. The Employer must present specific,

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1 detailed evidence in support of their position. Generally

2 conclusionary statements by witnesses will not be sufficient.

3 Employer, can you please present your first witness?

4 MR. PORTNOY: Michael? Up there.

5 HEARING OFFICER GOMEZ: Have a seat over there. Can you

6 please raise your right hand?

7 Whereupon,

8 MICHAEL CORDIELLO

9 Having been first duly sworn, was called as a witness and

10 testified herein as follows:

11 HEARING OFFICER GOMEZ: Thank you.

12 DIRECT EXAMINATION

13 BY MR. PORTNOY:

14 Q Michael, state your full name for the record.

15 A Michael Cordiello.

16 Q And by whom are you employed?

17 A Logan Bus Company.

18 HEARING OFFICER GOMEZ: Thank me. Can you please say?

19 your name for the record?

20 THE WITNESS: C-O-R-D-I-E-L-L-O.

21 HEARING OFFICER GOMEZ: Go ahead.

22 BY MR. PORTNOY:

23 Q And how -- what is your position with Logan?

24 A Operations manager.

25 Q And how long have you worked for Logan Bus?

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1 A 30 some odd years.

2 Q Now, are you familiar with the operation of the employees

3 who have been historically represented by Local 91?

4 A Yes.

5 Q And what work is -- what is the nature of the work that

6 they perform, the employees --

7 A Transport special ed students to and from school and

8 programs.

9 Q Okay. And mechanics?

10 A They work on the vehicles.

11 Q Now, do any of the employees in Local 1181 transport

12 special ed students?

13 A General ed only.

14 Q I'm sorry?

15 A General ed only. General education only.

16 Q As opposed to special ed?

17 A Yes.

18 Q And what about the employees in Local 553?

19 A I don't know. I think that is a new contract.

20 Q Okay. Now, can you tell us historically how it came about

21 that the company handled special ed work? Where did the work

22 originate from? Where were the bids when the bids first came

23 out? And how was the -- how was it set up?

24 A I came out the Jamaica yard in the 90's. We had maybe 10

25 vehicles in the Bronx. We expanded that year. He realized it

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1 wasn't efficient to be doing the toll every day. The toll was

2 doubled. So opened up the Zerega Avenue yard first.

3 Q Well, start with the Queens. It started in the Queens

4 location?

5 A In started in Queens location, correct. Atlantic Avenue.

6 Q And you had routes both in Queens and in the Bronx?

7 A All those.

8 Q And you did all special ed work?

9 A Yes.

10 Q Okay. And so as -- and the special ed work expanded, is -

11 -

12 A Correct.

13 Q -- that correct? And so at some point -- how long into

14 the contract did we start doing work out of the Bronx?

15 A They were doing work out of Queens for the Bronx in the

16 early 80's. In around '90-'91, that area, we moved to the

17 Bronx.

18 Q Okay. Now --

19 HEARING OFFICER GOMEZ: Thank me. Did you say 90?

20 THE WITNESS: Yes. '90-'91, in that area.

21 MR. PORTNOY: Now, during that time how was the work

22 assigned?

23 THE WITNESS: For the contract for the drivers?

24 BY MR. PORTNOY:

25 Q For the drivers.

1 A There's a pick.  
 2 Q I'm sorry?  
 3 A A pick.  
 4 Q There's a pick.  
 5 A They pick the work.  
 6 Q Now, each -- now, the -- each of the buses that transport  
 7 special ed children -- each of the vehicles. They're not all  
 8 buses, are they?  
 9 A Buses and vans. Large buses, small vans.  
 10 Q Okay. And is there a difference in pay between a van  
 11 driver and a large bus driver?  
 12 A Yes.  
 13 Q Okay. Now, each of the vehicles that transport special ed  
 14 students has a matron, is that correct?  
 15 A Correct.  
 16 Q At least one matron?  
 17 A At least.  
 18 Q And that's a part of dealing with the children, because of  
 19 the nature of the disabilities they might have?  
 20 A Department of Education Guidelines, yes.  
 21 Q And we currently, in the other unions, none of the  
 22 vehicles have matrons, is that correct?  
 23 A 1181 has no escorts anymore.  
 24 Q Now, when employees -- when did Local 91 begin to  
 25 represent the employees in Logan Bus?

1 A Before I came to Logan Bus.  
 2 Q Which is when?  
 3 A 30 some odd years ago.  
 4 Q Okay. And they've always represented all of the people  
 5 who do special ed work, is that correct?  
 6 A Correct.  
 7 Q Now, when people are hired for Logan Bus -- and when we're  
 8 talking about Logan Bus for the purposes of this proceeding  
 9 we're talking about the group of companies that transport  
 10 special ed children. Okay. When these -- when a driver or  
 11 matron is going to be hired, what's the process for that?  
 12 A They go to the main office at 97-14 Atlantic and all the  
 13 paperwork is done at that location.  
 14 Q Does the company sometimes advertize?  
 15 A Occasionally over the -- a few times. Not a lot, but yes.  
 16 Q And what do the ads look for?  
 17 A The ads say work available in all boroughs.  
 18 HEARING OFFICER GOMEZ: I'm sorry, can you repeat that?  
 19 Work available?  
 20 THE WITNESS: Work available in all boroughs.  
 21 BY MR. PORTNOY:  
 22 Q And they -- the prospective employees report to where did  
 23 you say?  
 24 A Atlantic Avenue.  
 25 Q And that's where they're interviewed, and fingerprinted I

1 assume and I-9'ed and --  
 2 A There's a drug test. There's a whole procedure, yes.  
 3 Q Okay. What about during the course of their employment if  
 4 an employee has to be drug tested or has to do paperwork --  
 5 A Classes -- all the safety classes are all given out of the  
 6 Atlantic Avenue office.  
 7 Q Okay.  
 8 A The classes are given there. Up until recently they had  
 9 to go to Brooklyn to their -- for their physical, but the same  
 10 doctor opened a Bronx location.  
 11 Q What about employees files, where are they kept?  
 12 A Atlantic Avenue.  
 13 Q Okay. Let's talk about the structure of Logan. Who  
 14 oversees the work of the drivers and matrons?  
 15 A On a day to day basis?  
 16 Q Yes.  
 17 A Day to day is dispatchers.  
 18 Q And where are the dispatchers located?  
 19 A One to two dispatchers in each location we have.  
 20 Q Okay. And who oversees the mechanics on a day to day  
 21 basis?  
 22 A There is a shop foreman at Zerega and the dispatchers at  
 23 the other two locations, Stillwell and Hunts Point.  
 24 HEARING OFFICER GOMEZ: I'm sorry, can you please repeat  
 25 that?

1 THE WITNESS: There's a shop foreman at Zerega. And at  
 2 Stillwell and Hunts Point basically they work hand in hand with  
 3 the dispatchers when it comes to repairs.  
 4 BY MR. PORTNOY:  
 5 Q So the dispatchers oversee both the drivers -- all of the  
 6 drivers, matrons and shop people in all the locations except  
 7 Zerega?  
 8 A Correct.  
 9 Q Now, who do the dispatchers report to?  
 10 A Dispatchers in the Bronx report to me. And in turn I  
 11 report to Joe DiGiacomo general manager.  
 12 Q Okay. And who do the dispatchers in Queens report to?  
 13 A Joe DiGiacomo.  
 14 Q Okay. Now, in making day to day decisions regarding the  
 15 employees for discipline and assignments, who makes those  
 16 decisions?  
 17 A It's myself and I will speak to Joe.  
 18 Q And what about --  
 19 HEARING OFFICER GOMEZ: Excuse me, can you repeat report  
 20 Joe's last name?  
 21 THE WITNESS: It's D-I-G-I-C-A-M-O (sic).  
 22 MR. PORTNOY: And what is Joe's position with the company?  
 23 THE WITNESS: General manager.  
 24 BY MR. PORTNOY:  
 25 Q And is he finally responsible for the day to day operation

1 Q I see. So when it comes to body work I guess --  
 2 A It's a bigger garage. That's why it's done like that.  
 3 Just a matter of that facility for the body shop being larger.  
 4 Q I see. And who handles the body work in the Bronx?  
 5 A The body men.  
 6 Q And at what location?  
 7 A Zerega.  
 8 Q I see. But not in Oakpoint or --  
 9 A No.  
 10 Q -- Stillwell?  
 11 COURT REPORTER: No?  
 12 THE WITNESS: No, sorry.  
 13 MR. CHUN: Anyone else -- any other shop employees do you  
 14 recall come from Queens to the Bronx?  
 15 THE WITNESS: Queens to Bronx? No.  
 16 BY MR. CHUN:  
 17 Q How about from Bronx to Queens?  
 18 A Yes.  
 19 Q Who?  
 20 A I transferred two mechanics that are still there. Tabby  
 21 (ph), who's in Jamaica.  
 22 Q Okay. When did Tabby transfer?  
 23 A Years ago. When they asked for it. Had to be four or  
 24 five years ago.  
 25 Q Four or five years ago?

1 A Yeah.  
 2 Q And she was a mechanic?  
 3 A Two mechanics and one body man.  
 4 Q Okay. And then what's the other mechanic's name?  
 5 A One is Tabby, the other one is Ram Mangle (ph).  
 6 Q Ram? Okay.  
 7 A Mangle.  
 8 Q When did that happen?  
 9 A And the third -- same time.  
 10 Q Four or five years ago?  
 11 A Yeah.  
 12 Q Okay.  
 13 A And the last one was a body man Derek Adams.  
 14 Q Where did -- when was he -- when --  
 15 A Same timeframe.  
 16 Q Alright. Why was Derek moved down to --  
 17 A He asked for a transfer.  
 18 Q Okay. But nothing since then? Four or five years ago?  
 19 A No.  
 20 Q Alright. So no other shop employees transferred from  
 21 Bronx to Queens?  
 22 A Not that I recall.  
 23 Q Okay. And what happened in the case of Ram and Tabby?  
 24 Did they ask for a transfer?  
 25 A Yes.

1 Q Do you know why?  
 2 A They lived in Queens.  
 3 Q Okay. I'm going to show you two documents, Joint 1 and  
 4 Joint 2.  
 5 HEARING OFFICER GOMEZ: Have them ready for the copies.  
 6 MR. CHUN: Just look through it. Let me know if you  
 7 recognize these documents.  
 8 THE WITNESS: This one, the MOA, I've never seen.  
 9 BY MR. CHUN:  
 10 Q When you say this one you're looking at --  
 11 A This is number 2.  
 12 Q -- Joint 2, last page?  
 13 A Yes.  
 14 Q But you saw the rest of Joint 2?  
 15 A No, pieces and parts. I've only -- I only see -- on the  
 16 collective bargaining agreement, I only see what pertains to  
 17 jobs for the drivers, and escorts and mechanics, not  
 18 necessarily money amounts. It doesn't pertain to me.  
 19 I would see certain things are hung in the bulletin board.  
 20 I know the right to mediation and arbitration I've seen in an  
 21 arbitration case. I know there's a paragraph about shop  
 22 steward in the bulletin board. I haven't read the whole thing  
 23 though.  
 24 Q So you're saying in the bulletin board there are pieces of  
 25 I guess an agreement between 91 and the Employer posted?

1 A I have seen pieces, not in -- I don't know which location,  
 2 but I've seen bits and pieces of certain things, but I haven't  
 3 seen that whole thing in there, no.  
 4 Q So you haven't seen these two documents in its entirety?  
 5 A No.  
 6 Q Do you know who negotiates the contract with Local 91 on  
 7 behalf of the Employer?  
 8 A When?  
 9 Q Let's take the last time, the last agreement that they  
 10 had.  
 11 A I know it was Mr. Portnoy, Michael Tornabe, Joe DiGiacomo.  
 12 I was there for part of it. Not all of it. I didn't make  
 13 every session.  
 14 Q Okay. So you were there for a part of it?  
 15 A A piece of it, yes.  
 16 Q Alright. So for the Employer it was Joe, yourself. And  
 17 for the -- and who else?  
 18 A Mr. Portnoy and --  
 19 Q Okay --  
 20 A -- the general manager Joe DiGiacomo.  
 21 Q Okay. So Joe, Mr. Portnoy, yourself. And then do you  
 22 recall who appeared for the Union?  
 23 A Union was -- at that time might have been -- I know it was  
 24 Peter.  
 25 Q Who is Peter?

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- 1 A I believe it was Peter Scalzo, Frankie --  
 2 Q Wait. Who --  
 3 A -- Luis.  
 4 Q -- was Peter?  
 5 A Peter Scalzo from the Union.  
 6 Q Do you know what his title is?  
 7 A Title, no.  
 8 Q Okay. And then the second person you mentioned?  
 9 A Luis Salazar.  
 10 Q Okay. And who is that?  
 11 A I believe he is vice president of the Union.  
 12 Q Okay. And the third person?  
 13 A And Frank Divito.  
 14 Q And do you know what his title is?  
 15 A Business agent.  
 16 Q Okay. And where did you meet? Do you recall where you  
 17 met?  
 18 A To do the negotiations?  
 19 Q Yeah.  
 20 A I think it was in Mark's office. It was --  
 21 Q Okay.  
 22 A -- three years ago. I think it was in Mark's office.  
 23 Q Alright. Was anyone else there?  
 24 A Don't recall.  
 25 Q But you didn't take part in any other negotiation then

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- 1 that one?  
 2 A Wasn't there the whole time. I might have been there one  
 3 or two times.  
 4 Q One or two times meaning on --  
 5 A One or two meetings.  
 6 Q One or two, okay. Did anyone tell you when the parties  
 7 came to an agreement?  
 8 A Way later, after it was all settled.  
 9 Q Did you ever see the agreement that the parties agreed to?  
 10 A (No audible answer)  
 11 Q No?  
 12 COURT REPORTER: Is that a no? You've got to --  
 13 THE WITNESS: No. I'm sorry.  
 14 BY MR. CHUN:  
 15 Q Were you involved in any negotiations between the company  
 16 and Local 1181?  
 17 A No.  
 18 Q Do you know who was?  
 19 A No.  
 20 Q Have you ever seen that contract?  
 21 A Only the -- a contract book from years ago I have in my  
 22 drawer.  
 23 Q There it is.  
 24 MR. PORTNOY: There it is.  
 25 THE WITNESS: Probably had that book a lot of years.

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- 1 MR. CHUN: I know you haven't -- you don't recognize these  
 2 documents, but if you go to the last page of Joint 1, do you  
 3 recognize the signatures there?  
 4 THE WITNESS: Peter Scalzo and Michael Tornabe.  
 5 BY MR. CHUN:  
 6 Q Who's Michael Tornabe?  
 7 A He's my boss. He's actually one of the owners of the  
 8 company.  
 9 Q Okay. Do you know who the other owners are?  
 10 A I would guess that would be his wife and his brother-in-  
 11 law Richard Logan, Jr. and Lorinda Logan.  
 12 Q Okay. You're guessing because you don't deal with them  
 13 regularly?  
 14 A I'm guessing, because I have never seen anything with  
 15 their name on it that says exactly what they are.  
 16 Q Alright. But do you interact with them at all?  
 17 A Lorinda very rare. Maybe two or three times a year.  
 18 Q So when Michael Tornabe is your -- when you say Michael  
 19 Tornabe is your boss, he's a person you speak to?  
 20 A I see him more than I see the rest of them. I usually see  
 21 Joe DiGiacomo most. I used to see Michael years ago. Michael  
 22 I see now person to person once every two or three weeks maybe.  
 23 Q Okay. And if you look at Joint 2, on the last page as  
 24 well, do you recognize that signature on the top?  
 25 A Yeah. Looks like Lorinda Logan.

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- 1 Q Who's that?  
 2 A That's Michael's wife.  
 3 Q She's one of the owners as well?  
 4 A I believe her to be.  
 5 Q Now, this is signed as -- by Lorinda Logan over what's  
 6 written as Logan Bus Group, but the first page of this Joint 2  
 7 says it's an agreement between 91 and Bus Maintenance Corp. Do  
 8 you know what the difference between Bus Maintenance Corp. and  
 9 Logan Bus Group is?  
 10 A No.  
 11 Q Alright. When did you become the manager responsible for  
 12 the Bronx?  
 13 A Roughly 10 years ago.  
 14 Q 10 years ago?  
 15 A Yeah.  
 16 Q And who made that decision?  
 17 A Michael Tornabe and Joe DiGiacomo.  
 18 Q Okay. Did they tell you why you -- what were you before  
 19 that?  
 20 A I was a shop foreman at Zerega.  
 21 Q Okay. And did they tell you why they were making you  
 22 operations manager of the Bronx?  
 23 A Told me they liked the way I worked, that I handled  
 24 everything and took care of everything.  
 25 Q Uh-huh. And before you became the manger responsible for

1 the Bronx, who was responsible for the Bronx?  
 2 A We had just opened. It was just a woman in New York by  
 3 the name of Anna.  
 4 Q Anna?  
 5 A Anna.  
 6 Q Do you know what her title is?  
 7 A She is no longer there. When she was there she, I guess,  
 8 was office manager at the time.  
 9 Q Was she doing more or less what you're doing now?  
 10 A She was doing it, yes.  
 11 Q So she's more than an office manager, she was a Bronx  
 12 manager?  
 13 A He split it up. Mr. Logan split it up not to hurt  
 14 anybody's feelings. I was the shop manager, she was the office  
 15 manager and everybody played nice basically.  
 16 Q I see. And then when you be -- from shop manager and then  
 17 you became Bronx manager?  
 18 A Correct.  
 19 Q Is that the time when she left?  
 20 A No, she was still there.  
 21 Q What was her title then?  
 22 A She had the same title, just didn't do the same job.  
 23 Q Okay. But did she report to you?  
 24 A For a short time.  
 25 Q And then she left the company?

1 A Yes.  
 2 Q And then at that time when you became Bronx manager, who  
 3 was in charge of Queens and Brooklyn, besides Joe?  
 4 A That was Joe and Patty. I believe Patty was still there.  
 5 Q Okay. Patty, the one you mentioned earlier?  
 6 A Yes.  
 7 MR. CHUN: Can I just get a couple of minutes?  
 8 HEARING OFFICER GOMEZ: Yes, off the record.  
 9 (Whereupon, a brief recess was taken)  
 10 HEARING OFFICER GOMEZ: On the record.  
 11 BY MR. CHUN:  
 12 Q Alright. There are shop employees at Zerega. How many  
 13 shop employees are there?  
 14 A Roughly 20.  
 15 Q And do they service the vehicles at Zerega?  
 16 A Yes.  
 17 Q The buses that are operated by New York Safe Bus -- Safe  
 18 Rides?  
 19 A No.  
 20 Q Who, I guess, performed any kind of maintenance work for  
 21 the buses that are run by New York Safe Rides?  
 22 A I don't know. It's not in the Bronx.  
 23 Q Okay. I'm sorry. That's in Powell Street.  
 24 A I believe it is, yes.  
 25 Q Right. And there are shop employees who work there?

1 A I haven't been there in a while, but I would have to say  
 2 yes --  
 3 Q Okay.  
 4 A -- if I had to guess.  
 5 Q But you don't know what vehicles they service?  
 6 A No, sir.  
 7 Q Okay. And Zerega shop employees you just stated that just  
 8 maintain the buses that operate out of Zerega?  
 9 A Well, they operate -- they replace -- they repair the  
 10 buses that are operated by 91, because the other two yards are  
 11 just not set up with a garage. They're just satellites. So we  
 12 do the main repairs at Zerega.  
 13 Q Okay. And then there are also buses that go out there  
 14 that have -- those employees have contracts with Local 1181,  
 15 right?  
 16 A Right.  
 17 Q You aware of that?  
 18 A Correct.  
 19 Q Okay. And who main -- who, you know, works on the buses  
 20 or on the vehicles that are run by the members of 1181 at  
 21 Zerega?  
 22 A They're repaired there and at Jamaica.  
 23 Q And when you say repaired there, the shop employees there  
 24 work on the vehicles that are operated by 1181 guys?  
 25 A Yes.

1 MR. CHUN: Okay. Alright. No more questions.  
 2 MR. PORTNOY: I have a few questions.  
 3 HEARING OFFICER GOMEZ: Go ahead, Mr. Portnoy.  
 4 REDIRECT EXAMINATION  
 5 BY MR. PORTNOY:  
 6 Q You described in detail the procedure that the drivers and  
 7 the matrons have each day when they report to work in the  
 8 Bronx. You talked about going to dispatch, getting their keys  
 9 and other things.  
 10 A Can I or did I?  
 11 Q You did already.  
 12 A Yeah.  
 13 Q If we asked the same questions about Queens would you give  
 14 the same answer?  
 15 A I've worked in Jamaica and I was in Queens for a month or  
 16 two. Mostly every yard runs the same way.  
 17 Q Okay. Now, I want to talk about picks. If I'm a Queens  
 18 driver, last year I drove in Queens and this year I've decided  
 19 if I can get a certain run in the Bronx I would take it, but  
 20 I'm not sure, because my seniority, where it's going to fall,  
 21 what -- how would I go about having an opportunity to pick that  
 22 run in the Bronx without giving up my rights to pick another  
 23 run in Queens that I want?  
 24 A Well, you have to pick one place you're going to be at  
 25 that moment, which means if you're a Queens driver and you

1 HEARING OFFICER GOMEZ: Uh-huh.  
 2 THE WITNESS: -- as a company we don't want to lay them  
 3 off. If we know it's only temporary or whatever it is, we may  
 4 move them rather than lay anybody off, to cover the shortage at  
 5 that time.  
 6 HEARING OFFICER GOMEZ: Okay. Are there shapes, escorts.  
 7 given assignments every day or are they ever told for the new  
 8 two weeks you're going to be reporting or you're going to be  
 9 working out of -- let's say that they're Queens shapes. For  
 10 the next two weeks you're going to reporting out of Bronx.  
 11 THE WITNESS: I think if the dispatcher knows they'll give  
 12 you a heads up so you can make your plans.  
 13 HEARING OFFICER GOMEZ: Okay.  
 14 THE WITNESS: If they know they're going to use you, then  
 15 they'll give you the heads up.  
 16 HEARING OFFICER GOMEZ: Okay. So are they doing regular  
 17 longer --  
 18 THE WITNESS: Yes.  
 19 HEARING OFFICER GOMEZ: -- term? Okay. And the same  
 20 applies to the drivers?  
 21 THE WITNESS: Yes.  
 22 HEARING OFFICER GOMEZ: Okay. Are there ever any  
 23 transfers that are not shapes?  
 24 THE WITNESS: No, not that I know of.  
 25 HEARING OFFICER GOMEZ: Okay. So all transfers are going

1 testified herein as follows:  
 2 HEARING OFFICER GOMEZ: Okay. And okay please state  
 3 your name and spell it for the record?  
 4 THE WITNESS: Frank Divito, D-I-V-I-T-O. D-I-V-I-T-O.  
 5 DIRECT EXAMINATION  
 6 BY MS. SHEPHERD:  
 7 Q Mr. Divito, by whom are you employed?  
 8 A I'm employed United Crafts and Industrial Workers Union  
 9 Local 91.  
 10 Q And what is your position with Local 91?  
 11 A Currently I'm a business agent.  
 12 Q And how long have you worked for Local 91?  
 13 A Well, I've worked for Local 91 recently from 2011 to the  
 14 present and prior to that I was employed by them from 1990  
 15 until 2002.  
 16 Q And are you familiar with the collective bargaining  
 17 relationship between Local 91 and Logan Bus Group?  
 18 A Yes, I am.  
 19 Q Have you had any experience concerning the picks that are  
 20 done for the employees -- the Local 91 employees of Logan?  
 21 A Yes.  
 22 Q And what is your experience with those picks?  
 23 A I've been --  
 24 Q What is your role?  
 25 A I've been doing the picks since I've returned in the

1 to be --  
 2 THE WITNESS: Yeah, because --  
 3 HEARING OFFICER GOMEZ: -- shapes?  
 4 THE WITNESS: -- you should have a run if you're a tenured  
 5 employee.  
 6 HEARING OFFICER GOMEZ: Okay. And does people that have  
 7 their runs --  
 8 THE WITNESS: They pick --  
 9 HEARING OFFICER GOMEZ: -- keep their routes?  
 10 THE WITNESS: -- them and they want to keep them.  
 11 HEARING OFFICER GOMEZ: Okay. I don't see it. Thank  
 12 you, Mr. Cordiello.  
 13 THE WITNESS: Thank you. Leave this here or?  
 14 HEARING OFFICER GOMEZ: You can hand that back to the  
 15 reporter.  
 16 MR. PORTNOY: Wait. Mike, your wife asked me to ask you a  
 17 few questions.  
 18 COURT REPORTER: Tough crowd today. Thank you.  
 19 HEARING OFFICER GOMEZ: Off the record.  
 20 (Whereupon, a brief recess was taken)  
 21 HEARING OFFICER GOMEZ: On the record.  
 22 Please raise your right hand.  
 23 Whereupon,  
 24 FRANK DIVITO  
 25 Having been first duly sworn, was called as a witness and

1 Queens location, Atlantic Avenue.  
 2 MS. SHEPHERD: Now, if the witness can be shown  
 3 Petitioner's 1 and 2?  
 4 THE WITNESS: I have 1 and 2. I have it.  
 5 BY MS. SHEPHERD:  
 6 Q Now, prior to the pick, do you normally receive seniority  
 7 lists of drivers and escorts?  
 8 A Yes.  
 9 Q And where does the list come from or lists come from?  
 10 A It comes from Logan Bus Company.  
 11 Q And so would you normally get a list of the -- a seniority  
 12 list of the drivers and a seniority list of the escorts?  
 13 A Yes.  
 14 Q Now, when you would get those lists -- if you can take a  
 15 look at Petitioner's 1? And if you can take a look at that  
 16 third column where there are B-X's  
 17 A Yes.  
 18 Q When you get the list from the Employer, is that B-X  
 19 already there?  
 20 A Yes.  
 21 Q And can you -- do you know why that B-X is there?  
 22 A Well, from my understanding the B-X is there from people  
 23 that pick in the Bronx from the year prior or from the summer  
 24 prior.  
 25 Q Now, people who have picked in the Bronx from the year

1 prior or the summer prior, are they restricted in what routes  
 2 and what locations they can bid for --  
 3 A No.  
 4 Q -- at the pick?  
 5 A Why would there be a B-X there?  
 6 Q Well, it's -- for our understanding, as a union, it's a  
 7 reference point. So when we call the members to pick if  
 8 they're not present we know why, whether it be in the Bronx,  
 9 they're picking in the Bronx or some other -- there's other  
 10 notations here that might say they're on disability or  
 11 whatever. So we don't hold a pick for somebody that's not  
 12 coming.  
 13 Q Are there instances where -- you run the pick in Queens.  
 14 Are there instances where there would be someone on the list  
 15 with a B-X, but they would pick in Queens?  
 16 A Yes.  
 17 Q And has that happened?  
 18 A Yes, it happens quite a bit.  
 19 Q Prior to the pick, what procedures do you use -- do you  
 20 undertake, in order to make sure that the pick goes well, in  
 21 terms of seniority, and routes and people being available to  
 22 pick for their routes?  
 23 A Well, what we do is we get the pick sheet, we compare the  
 24 dates of hire to what we have on file, to make sure everything  
 25 is correct.

1 Q And is this one seniority list for the entire company?  
 2 A Yes.  
 One seniority list for the drivers, one seniority  
 3 list for the matrons. Then we call people according to their  
 4 seniority. We'll do it by name and we'll do it by number, to  
 5 make sure nobody is overlooked.  
 6 And it's intermediately, when we get to a certain point,  
 7 we'll announce that we're at this point, you know, zero to 100  
 8 or, you know, 250 or whatever the case may be, in case anybody  
 9 was passed up they'll have an opportunity to come and pick.  
 10 And any names that we saw that they didn't come pick, we'll go  
 11 back and make sure that they're there, or they're not there or  
 12 whatever the case may be.  
 13 Q And that would be for all of the people who have the  
 14 earlier seniority, whether it be the Bronx or Queens?  
 15 A Correct.  
 16 Q Have the picks always been divided between Queens and the  
 17 Bronx?  
 18 A No, not always.  
 19 Q What was done prior to the division?  
 20 A Well, when I was here before from '90 -- from 1990 to  
 21 2002, they did the picks in Queens and they did -- they picked  
 22 for all locations out of the Queens base in Atlantic Avenue.  
 23 Q And what is your understanding as to why it was divided?  
 24 A To be honest with you, I wasn't here when they divided it  
 25 up. When I came back it was divided. But I assume that it's

1 because of the growth of the company.  
 2 Q Okay. Right. Does the Union receive dues and initiation  
 3 fees from the members?  
 4 A We get it from the company.  
 5 Q From deductions --  
 6 A Right.  
 7 Q -- correct? And when the dues and initiation fees come  
 8 into the Union are they separated by location?  
 9 A No.  
 10 Q How are they sent in?  
 11 A We submit a worksheet to the company and they do the check  
 12 off. And it's done by drivers and by matrons.  
 13 Q And is that through the entire bargaining unit?  
 14 A Yes.  
 15 Q And is that the same with the shop workers?  
 16 A Yes.  
 17 Q Now, the shop workers, do they have the same terms and  
 18 conditions of employment as the drivers and the escorts?  
 19 A No.  
 20 Q How are they paid, in terms of hours?  
 21 A I believe they clock in, and clock out, and they're paid  
 22 and they work a normal shift.  
 23 Q And what is that shift?  
 24 A I believe it's like an eight hour shift and then they --  
 25 they're entitled to overtime.

1 Q Do the drivers and the maintenance (sic) work an eight  
 2 hour shift?  
 3 A The drivers and matrons?  
 4 Q And matrons, sorry.  
 5 A No, they don't work an eight hour shift normally.  
 6 Q How is their work day divided, the drivers and the  
 7 matrons?  
 8 A Well, it depends on their runs and their routes. Some  
 9 have longer runs and routes than others. There are situations  
 10 where a driver and a matron will only work a couple of hours in  
 11 the morning and a couple of hours in the afternoon and they're  
 12 paid for the entire day. And there are situations where they  
 13 have mid-days or trips, where they might work the whole entire  
 14 day. So -- but they -- and they are also paid for an eight  
 15 hour day.  
 16 Q And are there instances where the shop employees would  
 17 have a break in the day, as the drivers or the matrons would  
 18 have?  
 19 A No, the only breaks the shop employees get is a morning  
 20 break, a lunch break and a afternoon break.  
 21 Q The summer picks are they done the same as the school year  
 22 picks?  
 23 A Yes.  
 24 Q And the same procedure with the seniority lists and  
 25 bidding according to seniority --



1 section on wages. Can you tell me where that might be?  
 2 THE WITNESS: It's not in the contract.  
 3 BY MR. CHUN:  
 4 Q It's not in the contract?  
 5 A No.  
 6 Q Where is it?  
 7 A We have a scale, a wage scale which is posted at every  
 8 bade. And that's the wages.  
 9 Q That's posted by the Employer?  
 10 A The Employer gives it to us at the beginning of the school  
 11 year. We check it. We correct it if it needs corrections.  
 12 We give it back to the Employer. Then they return the  
 13 corrected version and we post it at all the bases, yes.  
 14 Q Alright. What do you check it for?  
 15 A We check to make sure the rates are correct.  
 16 Q Well, how do you know the rates are correct if you don't -  
 17 - haven't agreed on the wages?  
 18 A They have been agreed. It's been -- we agree on an  
 19 increase. They get two increases a year for the most part,  
 20 because they have a scale, which is done by works weeked -  
 21 weeks worked. So if they work X amount of weeks they get an  
 22 increase when they reach that -- those weeks worked.  
 23 Also, every year they get what we call a CPI increase,  
 24 cost of living increase, which we negotiate. Could be 3%, 5%,  
 25 2%, whatever the case may be. And that's added to the scale.

1 Q Alright. But do you know if this contract contains any  
 2 language that binds the Employer to those rates that are  
 3 supposedly agreed upon?  
 4 A It should be in there, yes.  
 5 Q Alright. Well, the record will speak for itself. Also,  
 6 do you know if there are any pension rates or -- I didn't see  
 7 any pension contribution rates here. Do you know --  
 8 A The rates are not in there. The rates are on the  
 9 worksheet when we submit the worksheet. The increases -- if  
 10 there's any increases in the rates, it would be in the  
 11 contract.  
 12 Q What's a worksheet?  
 13 A A worksheet is what we submit to the company in order to  
 14 get paid the contributions, the dues and the initiation.  
 15 Q And that's part of the contract?  
 16 A I don't understand the question. Is it part of the  
 17 contract?  
 18 Q Okay.  
 19 A I mean it's part of our billing procedure.  
 20 Q Uh-huh.  
 21 MR. PORTNOY: That's a good question. I know you're  
 22 right.  
 23 MR. CHUN: I want to look at Joint 2. Have you seen this  
 24 document before?  
 25 THE WITNESS: Not in this format.

1 BY MR. CHUN:  
 2 Q So you've never seen this document?  
 3 A Not in this format, no.  
 4 Q Alright. Take a look at the last page in the back.  
 5 A Okay.  
 6 Q Have you seen this page before?  
 7 A No, I've never this.  
 8 Q Do you know when Local 91 and Logan signed a contract, the  
 9 last contract?  
 10 A I believe it was in 2012.  
 11 Q August 31st 2012 sounds right?  
 12 A Yeah, that sounds about right to me.  
 13 Q Alright. Look at the second to last page.  
 14 A Okay.  
 15 Q Before it says memorandum of agreement there's a page on  
 16 the left. You have a bunch of signatures there.  
 17 A Okay.  
 18 Q Who are these folks below the signature of Peter Scalzo?  
 19 A I believe those are workers at -- for Bus Maintenance  
 20 Corp., some of the shop employees.  
 21 Q Okay. And then right on the upper left there's a date of  
 22 April 9th 2012. What's the significance of that?  
 23 A I have no idea.  
 24 Q Okay. But your understanding is that the parties agreed  
 25 to this contract on April 31st 2012, right?

1 A That's what I determined from looking at it.  
 2 MR. CHUN: Uh-huh. Alright. No more questions.  
 3 HEARING OFFICER GOMEZ: Are there any follow up questions?  
 4 MS. SHEPHERD: No questions.  
 5 HEARING OFFICER GOMEZ: I have just one question --  
 6 THE WITNESS: Sure.  
 7 HEARING OFFICER GOMEZ: -- Mr. Division. Is the seniority  
 8 list used for anything other than picking a route?  
 9 THE WITNESS: Yes.  
 10 HEARING OFFICER GOMEZ: What else is the seniority list  
 11 used for?  
 12 THE WITNESS: For layoffs and recall.  
 13 HEARING OFFICER GOMEZ: Is it used for anything else?  
 14 THE WITNESS: Yes, it's used to determine if somebody  
 15 loses a run or they're taken off a run, who goes back -- who  
 16 gets --  
 17 HEARING OFFICER GOMEZ: Next?  
 18 THE WITNESS: Next to pick the run.  
 19 HEARING OFFICER GOMEZ: Is it used for anything else?  
 20 THE WITNESS: I'm sure it is, I just can't think of  
 21 anything offhand now. But any incidents that involve seniority  
 22 or would have to be determined seniority, we would use their  
 23 list, or our list or compare them both to make sure that they  
 24 correspond. Or in disputes when people think that they were  
 25 shafted out of a pick or any issues that have to do with

1 community of interest question. And you had two witnesses give  
2 testimony. A one day hearing.  
3 Specialty Healthcare does govern this hearing. It's  
4 rather straightforward. It's a recent law. There's not many  
5 cases that modified it in any fashion. And it's quite simply  
6 does the larger group have an overwhelming community of  
7 interest with the petitioned for unit? We strenuously object  
8 to the filing of briefs, as we believe that it is going to  
9 prolong this process.

10 HEARING OFFICER GOMEZ: Okay. Thank you. All of the  
11 arguments have been noted. I will discuss it with the Regional  
12 Director and we will have an answer shortly.  
13 I do want to note that in off the record discussions the  
14 parties were able to agree to election details. And the date  
15 is December 4th. The time is 9:00 to 6:00 -- 9:00 a.m. to 6:00  
16 p.m. And can we go off the record for a minute?

17 (Whereupon, a brief recess was taken)

18 HEARING OFFICER GOMEZ: On the record.  
19 The parties further agree that should the decision be that  
20 only the Bronx locations constitute the appropriate unit only,  
21 the election will be held at those two locations. If it is a  
22 broader unit with other locations, an election will be held at  
23 those locations as well.  
24 And as far as languages, should the unit petitioned for  
25 include only the Bronx, then we only need English and Spanish.

1 Should the petitioned for unit be expanded to include Queens  
2 and Brooklyn, then noticed and ballots will be needed in  
3 English, Spanish and Creole.

4 MR. PORTNOY: I don't think Creole. I think we decided  
5 Creole wasn't necessary.

6 MS. SHEPHERD: No, don't think it will be necessary.

7 HEARING OFFICER GOMEZ: Oh, it's not necessary?

8 MR. PORTNOY: We don't think that necessary. Do you --  
9 okay. So then it would just be Spanish and English regardless?

10 MR. PORTNOY: Right.

11 HEARING OFFICER GOMEZ: Mr. Portnoy, do you have request  
12 information for an onsite representative to send notices to?

13 If you need time --

14 MR. PORTNOY: On which site?

15 HEARING OFFICER GOMEZ: At each of the locations. Again --

16 -

17 MR. PORTNOY: No, Corey could help us put to -- Corey  
18 could help provide a list --

19 HEARING OFFICER GOMEZ: Okay.

20 MR. PORTNOY: -- of contact information on each site.

21 HEARING OFFICER GOMEZ: Okay.

22 MR. PORTNOY: Can I say one other thing before you go  
23 upstairs, based on what Jae said?

24 HEARING OFFICER GOMEZ: Yes.

25 MR. PORTNOY: The -- remember there are two related

1 questions here. One is the one that Jae referenced, which is  
2 the community of interest, the degree to which it's controlling  
3 and what it controls. And the other one is the integration of  
4 the mechanic and other unit. So it's a complicated case that's  
5 going to involve more than one Board precedent in the  
6 discussion.

7 HEARING OFFICER GOMEZ: Thank you. Off the record.  
8 (Whereupon, a brief recess was taken)

9 HEARING OFFICER GOMEZ: On the record.

10 The Regional Director has concluded that briefs may be  
11 filed and has determined that briefs will be due by the close  
12 of business on November 24th 2015. Briefs may be filed by e-  
13 filing on the Board's website, by mail or by hand delivery, but  
14 may not be filed by fax. In off the record discussions and in  
15 reviewing the due date for briefs, the parties have agreed that  
16 the election details are as follows. The election date is  
17 December 11th 2015 from 9:00 a.m. to 6:00 p.m. and the  
18 locations will be determined according to the decision issued  
19 by the Director. Lastly, I would just like to note that there  
20 is no information on whether Local 91 was recognized.  
21 The parties are reminded that they should request an  
22 expedited copy of the transcript from the court reporter. Late  
23 receipt of the transcript will not be grounds for an extension  
24 of time to file briefs, if the Regional Director has allowed  
25 post hearing briefs. If there is nothing further, the hearing

1 will be closed.

2 MS. SHEPHERD: Thank you.

3 HEARING OFFICER GOMEZ: The hearing is now closed.

4 (Whereupon, at 4:35 p.m. the hearing in the above-entitled  
5 matter was closed)